

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

05 10049 NG

CROWN CLOTHING CORPORATION,

Plaintiff

MAGISTRATE JUDGE 116

v.

RANDCORE, INC.,  
RAND INTERNATIONAL TRADING,  
INC., ANDRE BERNARD, AND  
RONALD BERNARD,  
Defendants

RECEIPT # 81329  
AMOUNT \$ 150  
SUMMONS ISSUED N 118  
LOCAL RULE 4.1 1  
WAIVER FORM 1  
MCF ISSUED 1  
BY DPTY. CLK. TULLI  
DATE 1/11/05

**DEFENDANTS' NOTICE OF REMOVAL**

Defendants Randcore, Inc., Rand International Trading, and Andred Bernard, (hereinafter the "Defendants") file this Notice of Removal and hereby remove the above-captioned action pursuant to 28 U.S.C. § 1446, and in support of said notice and removal state as follows:

1. On December 7, 2004, Plaintiff Crown Clothing Corporation ("Crown Clothing") commenced this action by filing a complaint in the Superior Court of the Commonwealth of Massachusetts (Suffolk County), entitled *Crown Clothing Corporation v. Randcore, Inc., et al.*, Civil Action No. 04-5313 (the "Original Complaint"). An amended complaint was filed on December 20, 2004, a copy of which is attached hereto at Tab 1.

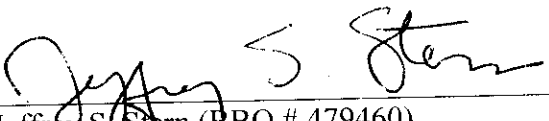
2. The Original Complaint was served on Defendants in New York via certified mail on December 9, 2004 and the Amended Complaint was served upon Defendants' attorney, Jeffrey S. Stern, via regular mail on December 20, 2004.

3. Crown Clothing alleges in the Amended Complaint that it is a Massachusetts Corporation with a principal place of business in Norwood, Massachusetts. As Crown Clothing also alleges in the Amended Complaint, defendants Randcore, Inc. ("Randcore") and Rand International Trading, Inc. ("Rand") are corporations with their principal places of business in New York, New York; and defendant Andre Bernard is an individual resident of Mount Kisco, New York. Accordingly, this controversy is between citizens of different states within the meaning of 28 U.S.C. § 1332.

WHEREFORE, Defendants Randcore, Inc., Rand International Trading, and Andre Bernard say this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and that the action is properly removable to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1441.

RANDCORE, INC., RAND INTERNATIONAL  
TRADING, INC. and ANDRE BERNARD

By their attorney,

  
\_\_\_\_\_  
Jeffrey S. Stern (BBO # 479460)  
Sugarman, Rogers, Barshak & Cohen, P.C.  
101 Merrimac Street  
Boston, MA 02114  
(617) 227-3030

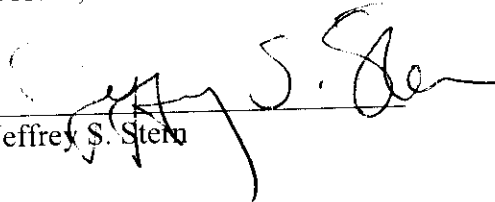
Dated: January 7, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following attorney of record for each party by mail on January 7, 2005:

John C. Wyman, Esquire  
Murtha Cullina LLP  
99 High Street, 20<sup>th</sup> floor  
Boston, MA 02110

Gary R. Greenberg, Esquire  
Greenberg Traurig  
One International Place  
Boston, MA 02110

  
Jeffrey S. Stern

# MURTHA CULLINA LLP

A T T O R N E Y S   A T   L A W

99 HIGH STREET  
BOSTON, MASSACHUSETTS 02110-2320

TELEPHONE (617) 457-4000  
FACSIMILE (617) 482-3868  
www.murthalaw.com

December 20, 2004

Suffolk Superior Court  
Session Clerk Business Litigation  
90 Devonshire Street, Ctrm. 6  
Boston, MA 02109

RE: Crown Clothing Corporation  
VS. Randcore, Inc. Rand International Trading, Inc.  
Andre Bernard and Ronald Bernard  
Civil Action No. 04-5313-BLS

Dear Sir/Madam:

Enclosed herewith for filing please find Amended Complaint relative to the above referenced matter.

Very truly yours,



Ryan M. MacDonald

RMM/lmp  
Enc.

cc: Jeffrey S. Stern, Esq.  
Ronald Bernard (via certified and regular mail)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO. 04-5313-BLS  
(Judge van Gestel)

CROWN CLOTHING CORPORATION, ]  
Plaintiff ]

v. ]

RANDCORE, INC., ]  
RAND INTERNATIONAL TRADING, ]  
INC. ANDRE BERNARD, AND ]  
RONALD BERNARD, ]  
Defendants ]

**AMENDED COMPLAINT**

**JURY TRIAL DEMANDED**

This is an action to recover sums paid by the plaintiff to the defendants in reasonable reliance upon the defendants' agreement to act in the best interests of the plaintiff and upon misrepresentations and other fraudulent conduct on the part of the defendants.

1. The plaintiff Crown Clothing Corporation (hereinafter "Crown Clothing") is a Massachusetts corporation with a principal place of business at 340 Vanderbilt Avenue, Norwood, MA 02062. Crown Clothing is a designer and importer of men's suits, sportcoats, overcoats and raincoats which it sells to retail stores throughout the United States. With exception of a New York City sales office staffed by three employees, all of Crown Clothing's activities occur within the Commonwealth of Massachusetts.

2. The defendant Randcore, Inc., ("RandCore") is a New York corporation with a principal place of business at 267 Fifth Avenue, New York, NY 10016.

3. The defendant Rand International Trading, Inc., ("Rand") is a New York corporation with a principal place of business at 267 Fifth Avenue, New York, NY 10016.

4. The defendant Andre Bernard is an individual resident of New York who lives at 5 Kitchel Road, Mount Kisco, New York. At all times material hereto, upon information and belief, Andre Bernard was an officer of and owned 100% of the stock of Randcore.

5. Ronald Bernard is an individual resident of New York who lives at 444 East 82<sup>nd</sup> Street, New York, New York. Ronald Bernard is a brother of Andre Bernard. At all times material hereto, upon information and belief, Ronald Bernard has been an officer of and owned 100% of the stock of Rand. On two occasions Roland Bernard traveled to Albena Style in Dobrich, Bulgaria to assist Crown Clothing representatives when Andre Bernard was not available to do so.

6. In connection with the services that the defendants performed for Crown Clothing, Andre Bernard periodically met with Crown Clothing employees in Massachusetts, regularly telephoned Crown Clothing representatives in Massachusetts, and sent letters and reports to Crown Clothing in Massachusetts. At all times Randcore and Rand sent invoices to Crown Clothing in Massachusetts, which Crown Clothing paid with funds on deposit with banking institutions located in Massachusetts. All damages sustained by Crown Clothing occurred in Massachusetts.

7. In 1995 Crown Clothing decided to have some of its men's suits and overcoats manufactured in Eastern Europe. Because of the distances from its Massachusetts offices, language differences, and differing business and legal practices and requirements, Crown Clothing determined that it needed to retain a person experienced in the men's clothing business in that region to advise and represent Crown Clothing in its dealings with clothing manufacturers in that area.

8. On or about March 1, 1995, Crown Clothing entered into a Contract with Randcore, a copy of which is attached hereto as Exhibit A (hereinafter "Contract"). Pursuant to the Contract, Randcore and its principal Andre Bernard agreed to represent Crown Clothing's interests and to serve as agent for Crown Clothing in the Czech Republic, Slovakia and Bulgaria. In the Contract Randcore agreed to perform services for Crown Clothing which included locating manufacturers of men's suits and coats, representing Crown Clothing in all of its dealings with such manufacturers, negotiating prices and other terms, performance of quality control and inspections, assuring that trademarks and other property rights of others are not infringed, accomplish customs clearances, and to otherwise represent Crown Clothing's interests. Under the Contract Crown Clothing was to pay Randcore a commission based on a percentage of the garment price or a flat fee, as mutually agreed. Randcore sent invoices to Crown Clothing and Crown Clothing paid Randcore commissions for garments purchased by Crown Clothing from manufacturers in the Czech Republic, Slovakia and Bulgaria during the term of the Contract.

9. The Contract expired by its express terms on December 31, 1996. Thereafter Randcore and Andre Bernard continued to perform the same agent services for Crown Clothing that Randcore had performed during the formal period of the Contract. No formal written document was executed by Crown Clothing or Randcore extending the term of the Contract or otherwise further defining the relationship between Crown Clothing and Randcore.

10. Among the men's clothing manufacturers introduced to Crown Clothing by Andre Bernard was Albena Style AD ("Albena Style"), a corporation doing business at 55, 25-th September Boulevard, 9300 Dobrich, Bulgaria. In 1997 Andre Bernard negotiated a contract on behalf of Crown Clothing to have Albena Style manufacture men's overcoats for Crown Clothing. At the time that Crown Clothing first ordered garments from Albena Style, Andre

Bernard of Randcore represented to Richard Silverman and Robert Graci of Crown Clothing that Albena Style could not provide linings for overcoats that Albena Style would manufacture for Crown Clothing. Andre Bernard represented to Mr. Silverman and Mr. Graci that he would purchase and provide linings to Albena Style to incorporate into the overcoats that Albena Style would manufacture for Crown Clothing, and that his company would send invoices to Crown Clothing for the cost of the linings provided to Albena Style.

11. Since 1997 Crown Clothing has purchased numerous overcoats from Albena Style. Randcore has invoiced, and Crown Clothing has paid to Randcore, a commission of \$1.05 to \$1.75 for each overcoat Albena Style has manufactured and sold to Crown Clothing. A copy of a typical invoice from Randcore is attached hereto as Exhibit B. In addition, Rand has invoiced and Crown Clothing has paid Rand for a lining for each coat manufactured by and sold to Crown by Albena Style at prices of \$2.63, \$2.88 and \$3.21 per garment. A copy of a typical invoice from Rand is attached hereto as Exhibit C.

12. In late August or early September, 2004, during a telephone conversation with the Executive Director of Albena Style in Dobrich, Bulgaria, Robert Graci of Crown Clothing learned that Andre Bernard's 1997 statement to Mr. Silverman and Mr. Graci that Albena Style could not provide linings for overcoats manufactured for Crown Clothing was false. This was the first time that Crown Clothing had any knowledge that Andre Bernard's representations were false. In addition, during the same telephone conversation Mr. Graci was told for the first time that Albena Style had purchased and installed linings in every overcoat manufactured for Crown Clothing by Albena Style and that the cost of these linings was included in the invoiced price paid by Crown Clothing to Albena Style.



13. The representations by Andre Bernard to Crown Clothing that Albena Style could not supply linings for men's coats to be manufactured by Albena Style for Crown Clothing were false, and Andre Bernard knew them to be false.

14. The representations by Andre Bernard to Crown Clothing that Andre Bernard would purchase linings and provide them to Albena Style to be included in men's overcoats to be manufactured by Albena Style for Crown Clothing were false, and Andre Bernard knew them to be false

15. Crown Clothing paid Rand's invoices for linings in reasonable reliance upon representations by Andre Bernard to Richard Silverman and Robert Graci.

16. Crown Clothing has paid Rand more than \$776,873 for linings to be installed in overcoats manufactured by Albena Style for Crown Clothing. In addition, because amounts that Crown Clothing paid to Rand for linings were a cost that was required to be included in the dutiable cost on which Crown Clothing was required to pay United States customs duties, Crown Clothing has overpaid more than \$134,243.99 in U. S. customs duties. Crown Clothing has also sustained other damages including but not limited to loss of business and other incidental and consequential damages as a result of its reliance upon the defendants' misrepresentations as aforealleged.

#### **COUNT I – BREACH OF FIDUCIARY DUTY**

17. Paragraphs 1 through 16 are incorporated by reference.

18. Crown Clothing employed Andre Bernard and his corporation Randcore to act as its agent and on its behalf to locate manufacturers of men's suits and coats in the Czech Republic, Slovakia and Bulgaria, to negotiate prices and other contract terms, to conduct quality control and inspections, to assure that trademarks and other property rights of others are not

infringed, to perform customs clearances, and to otherwise represent Crown Clothing's interests in the Czech Republic, Slovakia and Bulgaria. On at least two occasions known to Crown Clothing, Ronald Bernard performed such services at Albena Style on behalf of Crown Clothing when Andre Bernard was unable to do so.

19. Crown Clothing reasonably relied on Andre Bernard to faithfully perform these services.

20. Andre Bernard and Randcore knew that Crown Clothing would be relying upon Andre Bernard and Randcore to faithfully perform these services.

21. In breach of their fiduciary duties, Andre Bernard and Randcore:

- a. misrepresented to Crown Clothing that Albena Style could not supply linings for overcoats that Albena Style was to manufacture for Crown Clothing,
- b. misrepresented to Crown Clothing that Andre Bernard and Randcore would supply to Albena Style linings to be included in overcoats manufactured by Albena Style for Crown Clothing,
- c. caused invoices to be sent to Crown Clothing for the cost of linings that Andre Bernard and Randcore did not purchase or provide to Albena Style.

22. Andre Bernard and Randcore's breaches of their fiduciary duties caused damage to Crown Clothing.

#### **COUNT II -- FRAUD**

23. Paragraphs 1 through 22 are incorporated by reference.

24. The misrepresentations by Andre Bernard and Rand were intentionally made.

25. Upon information and belief, Ronald Bernard and Rand sent invoices to Crown Clothing for the costs of linings for overcoats manufactured by Albena Style for Crown Clothing knowing that none of the defendants had purchased or supplied linings to Albena Style for inclusion into overcoats manufactured for Albena Style.

26. Crown Clothing has been damaged by the defendants' conduct as aforealleged.

### **COUNT III – BREACH OF CONTRACT**

27. Paragraphs 1 through 26 are incorporated by reference.

28. Rand invoiced Crown Clothing for a lining for each coat manufactured by and sold to Crown Clothing by Albena Style.

29. Crown Clothing paid Rand's invoices.

30. Crown Clothing's payments on Rand's invoices created a sales contract between Rand and Crown Clothing (the "Sales Contracts").

31. Crown Clothing performed under the Sales Contracts.

32. Rand breached the Sales Contracts through its failure to deliver linings to Albena Style for the overcoats.

33. Rand's breach of the Sales Contracts caused damage to Crown Clothing.

### **COUNT IV – BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**

34. Paragraphs 1 through 33 are incorporated by reference.

35. The defendants' conduct as alleged herein is a breach of the implied covenant good faith and fair dealing in the Contract and the Sales Contracts.

36. The defendants' breach caused damage to Crown Clothing Corporation.

**COUNT V – CONVERSION**

37. Paragraphs 1 through 36 are incorporated by reference.

38. The defendants made the misrepresentations to Crown Clothing and caused invoices to be sent to Crown Clothing in order to convert Crown Clothing's money for their own use.

39. The conduct of the defendants as aforealleged caused damage to Crown Clothing.

**COUNT VI – CONSPIRACY**

40. Paragraphs 1 through 39 are incorporated by reference.

41. At least as early as 1997, Andre Bernard, Ronald Bernard, Randcore, and Rand, acting in combination, consciously conspired and deliberately pursued a common plan to defraud Crown Clothing. The conspiracy manifested in the following events, among others:

- a. The misrepresentations alleged in paragraph 10 of this Complaint,
- b. Sending invoices from Rand to Crown Clothing for linings as alleged in paragraph 11 of this Complaint, and
- c. Concealing from Crown Clothing that Albena Style provided linings for all overcoats manufactured for Crown Clothing.

42. In furtherance of said conspiracy and common plan the defendants and each of them expressly or tacitly agreed to the misrepresentations, sent the Randcore and Rand invoices to Crown Clothing, profited from their fraudulent conduct, and concealed their fraudulent conduct.

43. Crown Clothing has been damaged by the defendants' conduct as aforealleged.

**COUNT VII -- UNFAIR BUSINESS PRACTICES**

44. Paragraphs 1 through 44 are incorporated by reference.

45. The defendants' conduct as alleged, and the damages sustained by Crown Clothing occurred, primarily and substantially within the Commonwealth of Massachusetts.

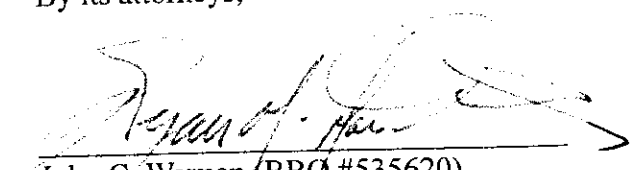
46. Under Mass. G.L. c. 93A, §11, Crown is entitled to its damages, multiple damages, costs and attorney's fees.

**WHEREFORE**, the plaintiff requests:

- A. That it be awarded its damages, together with interest and costs;
- B. That it be awarded multiple damages, costs and attorney's fees in accordance with Mass. G.L. c. 93A, §11; and
- C. That it be awarded such further relief as is just.

CROWN CLOTHING CORPORATION,

By its attorneys,

  
John C. Wyman (BBO #535620)  
Ryan MacDonald (BBO #654688)  
Murtha Cullina LLP  
99 High Street, 20<sup>th</sup> Floor  
Boston, MA 02110-2320  
(617) 457-4000

Dated: December 20, 2004

**KANDCORE International Trading Inc.****Invoice**

267 5th avenue  
 New York, NY 10016  
 Phone: 212-889-5010  
 Fax: 212-685-2346

DATE JUNE 18, 2004  
 INVOICE # 0025

To:  
 CROWN CLOTHING CORP  
 340 VANDERBILT AVE.  
 NORWOOD MA 02062  
 USA

Comments or Special Instructions:

SALESPERSON	P.O. NUMBER	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1992	MONIES DUE ON ALBENA INVOICE 311 - 03.06.2004 SENTRY MEN'S COATS	\$ 1.30	\$ 2,589.60
SUBTOTAL			\$ 2,589.60
OTHERS			
TOTAL			\$ 2,589.60

APPO	DATE	ADJ.	VENO #
WHSE	DTE REC	INV REC	ENT. COM
SELECT	DTE PAID	Chk #	

8/31 4711 ✓

## AGENCY AGREEMENT Page 1

## 1. PARTIES TO THIS AGREEMENT:

Purchaser: CROWN CLOTHING CORP.  
425 Providence Highway  
Westwood, Mass. 02090

AGENT: RANDCORE, INC.  
230 Fifth Avenue  
New York, N.Y. 10001

## 2. ENGAGEMENT:

Purchaser hereby engages Agent on an exclusive basis to facilitate the purchase of merchandise by the Purchaser from particular factories in Czech Republic, Slovakia, and Bulgaria, and Agent hereby accepts such engagement, subject to the terms and conditions contained herein.

## 3. EFFECTIVE DATE:—March 1, 1995— This Agreement contains all previous understandings regarding the matters addressed herein.

## 4. PERIOD OF ENGAGEMENT AND TERMINATION:

This engagement by the Purchaser of Agent shall terminate on December 31, 1996.

## 5. DUTIES AND RESPONSIBILITIES OF THE AGENT:

A. Agent shall perform the following services: (1) submit samples to Purchaser of merchandise to be manufactured in those countries covered by this Agreement, (2) use its best efforts to negotiate prices for the merchandise mutually acceptable to the purchaser and the factory, (3) carefully review and select factories that are capable of producing merchandise in acceptable quality standards within the dates required by Purchaser, and (4) upon Agreement instructions of the purchaser, establish purchasing contract with the factories.

Agent shall have no authority to bind Purchaser except upon written agreement by Richard Silverman. The Purchaser shall be relying on the expertise and review of Agent in the selection of factories.

B. Agent will carefully inspect the production and packaging of the merchandise in accordance with generally accepted random sampling techniques to ensure that Purchaser's requirements for the merchandise have been completely satisfied.

C. Agent represents and warrants that the merchandise ordered on behalf of

Purchaser does not infringe on any trademark, traddress, copyright, patent, servicemark, or other similar property right of any part (Property Right).

D. In the event of a dispute of claim by Purchaser against the factory relating to the merchandise, including by not limited to, faulty or defective merchandise, failure to meet production and/or delivery deadlines, failure to meet appropriate U.S. Tariff content requirements, or allegations of infringement of a Property Right, Agent shall use its best efforts to negotiate and settle such claims provided, however any such claims may not be asserted by Purchaser directly against Agent.

E. Agent shall arrange that the following documents required for U.S. Customs Entry be sent to Purchaser, these documents to include:

\*Commercial Invoice

\*Packing List

\*Other Documents when required:

\*Component weight/cost breakdown.

\* Visad Invoice or Visad Special Customs Invoice,  
Form 5515.

\*Country of Origin Declaration.

\*Documents specially required in Letter of Credit.

#### 6. TERMS OF PURCHASE:

Unless otherwise specified, all orders placed by Agent for the account of Purchaser shall be made on an Ex-Factory basis. Commercial invoices will be prepared by the factories as the sellers on the basis of the price (s) paid to the factories, exclusive of the commission provided for herein.

#### 7. RESPONSIBILITIES AND THE DUTIES OF THE PURCHASER:

A. For providing above services, the Purchaser will pay Agent a commission based on a percentage of the Ex-Factory Country of Origin price or a flat fee per unit as mutually agreed upon, which commission will be indicated on the Purchaser's order sheet.

60 B. The Purchaser shall make payment of the above-stated commission within thirty (30) days of completion of the following requirements: (1) Presentation by Agent of its invoice for said commission, and (2) acceptance by the Purchaser of the covered shipment in the condition as specified in the purchase contract. Purchaser shall have the right to withhold or offset any funds within its possession due Agent if Agent fails to perform any of its obligations under this Agreement.

C. Except as otherwise provided in this Agreement, the Purchaser shall be the importer of record and will be responsible for all import duties. Except as otherwise herein provided, Agent shall at no time have or be deemed to have title to the merchandise, nor shall Agent bear any loss with respect to any merchandise procured for the Purchaser.

#### 8. PAYMENT FOR GOODS:

Unless otherwise specified on the Purchase Contract, merchandise will be paid for by a Letter of Credit to be instituted by the Purchaser with the supplying factory (seller) as sole beneficiary ninety (90) days prior to the agreed shipping date, and upon acceptance by the Purchaser of a Pro Forma Invoice which states:

1. Purchaser's Cui Numbers
2. Name and Address of Factory
3. Country of Origin
4. Shipping Date
5. Terms of Sale
6. Cost per unit
7. Quantity

#### 9. SEPARATION OF INTEREST:

Agent represents and warrants as to each order placed by Company with Agent's assistance that:

- a. It has no ownership interest in, or any control of, or any financial interest in the factories or manufacturers or other suppliers making the merchandise purchased.
- b. It does not on its own account sell raw materials to the factories, manufacturers or other suppliers making such merchandise unless instructed to by the Purchaser.
- c. The factories, manufacturers or other suppliers have no ownership interest in, or any control, or any financial interest in Agent.



d. It will not share commissions in any manner with manufacturers, suppliers, or any other persons or entities and Agent shall defend, indemnify and hold Purchaser harmless from all costs, additional duties, penalties and damages incurred by Purchaser as a result of a breach of any of the above-cited warranties of Section 9, Separation of Interest.

10. SOLE AGREEMENT:

a. This agreement is the sole agreement between Crown Clothing Corp. and Randcore, Inc. and all other agreements, if any, prior to this are null and void.

AGREEMENT ACCEPTED BY:

RANDCORE, INC.

BY: *John Butler*

DATED: 9/30/98

CROWN CLOTHING CORP.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

09/21/04 TUE 11:04 FAX 781 762 68

ATLANTIC TECHNOLOGY

International Trading Inc.

## Invoice

67 5th avenue  
New York, NY 10016  
Phone: 212-889-5010  
Fax: 212-685-2346

DATE JUNE.18.2004  
INVOICE # 0028✓

To:  
CROWN CLOTHING CORP  
340 VANDERBILT AVE.  
NORWOOD MA 02062  
USA

John,  
These are typical invoices for  
lining charges that he never  
provided. Each invoice represents  
1 container load of product

Comments or Special Instructions:

SALESPERSON	P.O. NUMBER	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT																								
1992	MONIES DUE ON ALBENA INVOICE 311 - 03.06.2004 SENTRY MEN'S COATS	\$ 2.88	\$ 5,736.96																								
<table border="1"> <tr> <td>APPD</td><td>DATE</td><td>ADJ.</td><td>VEND #</td></tr> <tr> <td></td><td></td><td></td><td>4710</td></tr> <tr> <td>WHSE</td><td>DTE.REC.</td><td>INV.REC</td><td>ENT. COMP</td></tr> <tr> <td></td><td></td><td>7/29</td><td>✓</td></tr> <tr> <td>SELECT</td><td></td><td>DTE PAID</td><td>CHK#</td></tr> <tr> <td></td><td></td><td>7/29</td><td>10669</td></tr> </table>				APPD	DATE	ADJ.	VEND #				4710	WHSE	DTE.REC.	INV.REC	ENT. COMP			7/29	✓	SELECT		DTE PAID	CHK#			7/29	10669
APPD	DATE	ADJ.	VEND #																								
			4710																								
WHSE	DTE.REC.	INV.REC	ENT. COMP																								
		7/29	✓																								
SELECT		DTE PAID	CHK#																								
		7/29	10669																								
SUBTOTAL			\$ 5,736.96																								
OTHERS																											
TOTAL			\$ 5,736.96																								

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
BUSINESS LITIGATION SESSION  
CIVIL ACTION NO.

04-5313

CROWN CLOTHING CORPORATION,  
Plaintiff

v.

RANDCORE, INC.,  
RAND INTERNATIONAL TRADING,  
INC. ANDRE BERNARD, AND  
RONALD BERNARD,  
Defendants

COMPLAINT

RECEIVED

DEC 07 2004

JURY TRIAL DEMAND

SUPERIOR COURT - CIVIL  
CLERK / MAGISTRATE  
JOSEPH DONOVAN

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1. The plaintiff Crown Clothing Corporation (hereinafter "Crown Clothing") is a Massachusetts corporation with a principal place of business at 340 Vanderbilt Avenue, Norwood, MA 02062. Crown Clothing is a designer and importer of men's suits, sportcoats, overcoats and raincoats which it sells to retail stores throughout the United States. With exception of a New York City sales office staffed by three employees, all of Crown Clothing's activities occur within the Commonwealth of Massachusetts.
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5. Ronald Bernard is an individual resident of New York who lives at 444 East 82<sup>nd</sup> Street, New York, New York. Ronald Bernard is a brother of Andre Bernard. At all times material hereto, upon information and belief, Ronald Bernard has been an officer of and owned 100% of the stock of Rand. On two occasions Ronald Bernard traveled to Albena Style in Dobrich, Bulgaria to assist Crown Clothing representatives when Andre Bernard was not available to do so.

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290612-5

12/7/2004

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10. Among the men's clothing manufacturers introduced to Crown Clothing by Andre Bernard was Albena Style AD ("Albena Style"), a corporation doing business at 55, 25-th September Boulevard, 9300 Dobrich, Bulgaria. In 1997 Andre Bernard negotiated a

290012-5

12/12/2004

contract on behalf of Crown Clothing to have Albena Style manufacture men's overcoats for Crown Clothing. At the time that Crown Clothing first ordered garments from Albena Style, Andre Bernard of Randcore represented to Richard Silverman and Robert Graci of Crown Clothing that Albena Style could not provide linings for overcoats that Albena Style would manufacture for Crown Clothing. Andre Bernard represented to Mr. Silverman and Mr. Graci that he would purchase and provide linings to Albena Style to incorporate into the overcoats that Albena Style would manufacture for Crown Clothing, and that his company would send invoices to Crown Clothing for the cost of the linings provided to Albena Style.

11. Since 1997 Crown Clothing has purchased numerous overcoats from Albena Style. Randcore has invoiced, and Crown Clothing has paid to Randcore, a commission of \$1.05 to \$1.75 for each overcoat Albena Style has manufactured and sold to Crown. A copy of a typical invoice from Randcore is attached hereto as Exhibit B. In addition, Rand has invoiced and Crown has paid Rand for a lining for each coat manufactured by and sold to Crown by Albena Style at prices of \$2.63, \$2.88 and \$3.21 per garment. A copy of a typical invoice from Rand is attached hereto as Exhibit C.

12. In late August or early September, 2004, during a telephone conversation with the Executive Director of Albena Style in Dobrich, Bulgaria, Robert Graci of Crown Clothing learned that Andre Bernard's 1997 statement to Mr. Silverman and Mr. Graci that Albena Style could not provide linings for overcoats manufactured for Crown Clothing was false. This was the first time that Crown Clothing had any knowledge that Andre Bernard's representations were false. In addition, during the same telephone conversation Mr. Graci was told for the first time that Albena Style had purchased and installed linings in every

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overcoat manufactured for Crown Clothing by Albena Style and that the cost of these linings was included in the invoiced price paid by Crown Clothing to Albena Style.

13. The representations by Andre Bernard to Crown Clothing that Albena Style could not supply linings for men's coats to be manufactured by Albena Style for Crown Clothing were false, and Andre Bernard knew them to be false.

14. The representations by Andre Bernard to Crown Clothing that Andre Bernard would purchase linings and provide them to Albena Style to be included in men's overcoats to be manufactured by Albena Style for Crown Clothing were false, and Andre Bernard knew them to be false.

15. Crown Clothing paid Rand's invoices for linings in reasonable reliance upon representations by Andre Bernard to Richard Silverman and Robert Graci.

16. Crown Clothing has paid Rand more than \$776,873 for linings to be installed in overcoats manufactured by Albena Style for Crown Clothing. In addition, because amounts that Crown Clothing paid to Rand for linings were a cost that was required to be included in the dutiable cost on which Crown Clothing was required to pay United States customs duties, Crown Clothing has overpaid more than \$134,243.99 in U. S. customs duties. Crown Clothing has also sustained other damages including but not limited to loss of business and other incidental and consequential damages as a result of its reliance upon the defendants' misrepresentations as aforealleged.

### **COUNT I - BREACH OF FIDUCIARY DUTY**

17. Paragraphs 1 through 16 are incorporated by reference.

18. Crown Clothing employed Andre Bernard and his corporation Randcore to act as its agent and on its behalf to locate manufacturers of men's suits and coats in the Czech

**Commonwealth of Massachusetts**

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION  
No. 04-5313-BLS

CROWN CLOTHING CORPORATION, PRT(S).

v.

ANDRE BERNARD, ET AL. , DEF(S).

**JURISDICTION**  
(Mass. R. Civ. P. 4)

(AFFIX FILING STAMP HERE)

200

**N.B. TO PROCESS SERVER:-  
PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN  
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.**

Dated: 200

I hereby certify and return that on 200, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

**PROOF OF SERVICE OF PROCESS**



Republic, Slovakia and Bulgaria, to negotiate prices and other contract terms, to conduct quality control and inspections, to assure that trademarks and other property rights of others are not infringed, to perform customs clearances, and to otherwise represent Crown Clothing's interests in the Czech Republic, Slovakia and Bulgaria. On at least two occasions known to Crown Clothing, Ronald Bernard performed such services at Albena Style on behalf of Crown Clothing when Andre Bernard was unable to do so.

19. Crown Clothing reasonably relied on Andre Bernard to faithfully perform these services.

20. Andre Bernard and Randcore knew that Crown Clothing would be relying upon Andre Bernard and Randcore to faithfully perform these services.

21. In breach of their fiduciary duties, Andre Bernard and Randcore:

- a. misrepresented to Crown Clothing that Albena Style could not supply linings for overcoats that Albena Style was to manufacture for Crown Clothing,
- b. misrepresented to Crown Clothing that Andre Bernard and Randcore would supply to Albena Style linings to be included in overcoats manufactured by Albena Style for Crown Clothing,
- c. caused invoices to be sent to Crown Clothing for the cost of linings that Andre Bernard and Randcore did not purchase or provide to Albena Style.

22. Andre Bernard and Randcore's breaches of their fiduciary duties caused damage to Crown Clothing.

**COUNT II -- FRAUD**

23. Paragraphs 1 through 22 are incorporated by reference.
24. The misrepresentations by Andre Bernard and Rand were intentionally made.
25. Upon information and belief, Ronald Bernard and Rand sent invoices to Crown Clothing for the costs of linings for overcoats manufactured by Albena Style for Crown Clothing knowing that none of the defendants had purchased or supplied linings to Albena Style for inclusion into overcoats manufactured for Albena Style.
26. The conduct of the defendants as aforealleged caused damage to Crown Clothing Corporation.

**COUNT III - CONSPIRACY**

27. Paragraphs 1 through 26 are incorporated by reference.
28. At least as early as 1997, Andre Bernard, Ronald Bernard, Randcore, and Rand, acting in combination, consciously conspired and deliberately pursued a common plan to defraud Crown Clothing. The conspiracy manifested in the following events, among others:
- a. The misrepresentations alleged in paragraph 10 of this Complaint,
  - b. Sending invoices from Rand to Crown Clothing for linings as alleged in paragraph 11 of this Complaint, and
  - c. Concealing from Crown Clothing that Albena Style provided linings for all overcoats manufactured for Crown Clothing.
29. In furtherance of said conspiracy and common plan the defendants and each of them expressly or tacitly agreed to the misrepresentations, sent the Randcore and Rand

invoices to Crown Clothing, profited from their fraudulent conduct, and concealed their fraudulent conduct.

30. Crown Clothing has been damaged by the defendants' conduct as aforealleged.

**COUNT IV ... UNFAIR BUSINESS PRACTICES**

31. Paragraphs 1 through 30 are incorporated by reference.

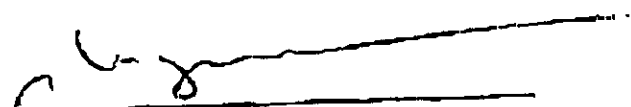
32. The defendants' conduct as alleged, and the damages sustained by Crown Clothing occurred, primarily and substantially within the Commonwealth of Massachusetts.

33. Under Mass. G.L. c. 93A, §11, Crown is entitled to its damages, multiple damages, costs and attorney's fees.

**WHEREFORE**, the plaintiff requests:

- A. That it be awarded its damages, together with interest and costs;
- B. That it be awarded multiple damages, costs and attorney's fees in accordance with Mass. G.L. c. 93A, §11; and
- C. That it be awarded such further relief as is just.

By its attorneys,


  
John C. Wyman (BBO #535620)  
Ryan MacDonald (BBO #654688)  
Murtha Cullina LLP  
99 High Street, 20<sup>th</sup> Floor  
Boston, MA 02110-2320  
(617) 457-4000

Dated: December 7, 2004

**DEMAND FOR TRIAL BY JURY**

The plaintiff Crown Clothing Corporation demands trial by jury.

By its attorneys,



---

John C. Wyman (BBO #535620)  
Ryan MacDonald (BBO #654688)  
Murtha Cullina LLP  
99 High Street, 20<sup>th</sup> Floor  
Boston, MA 02110-2320  
(617) 457-4000

Dated: December 7, 2004

# Commonwealth of Massachusetts

SUFFOLK, SS.



SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

No. 04-5313-BLS

CROWN CLOTHING CORPORATION, Plaintiff(s)

v.

ANDRE BERNARD, ET AL, Defendant(s)

## SUMMONS

Andre Bernard of 5 Mitchell Road,  
Mount Kisco, NY 10549

To the above-named Defendant:

You are hereby summoned and required to serve upon John C. Wyman  
Murtha Cullina LLP

plaintiff's attorney, whose address is 99 High Street, Boston, MA 02110-2320, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness Barbara J. Rouse, Esquire, at Boston, this seventh day of December, in the year of our Lord two thousand four.

*Michael Joseph Donovan*  
Clerk/Magistrate

### NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT (2) MOTOR VEHICLE TORT (3) CONTRACT (4) EQUITABLE RELIEF (5) OTHER

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

**MURTHA CULLINA LLP**  
ATTORNEYS AT LAW

99 HIGH STREET  
BOSTON, MASSACHUSETTS 02110-2320

TELEPHONE (617) 457-4000  
FACSIMILE (617) 482-3868  
www.murthahlaw.com

December 7, 2004

**VIA CERTIFIED MAIL  
RETRUN RECEIPT REQUESTED**

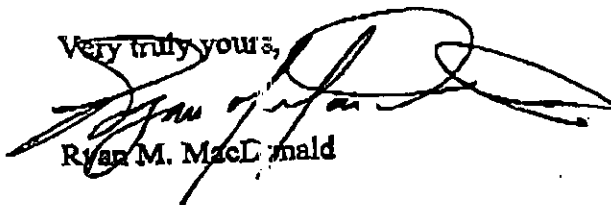
Andre Bernard  
5 Kitchel Road  
Mount Kisco, NY 10549

RE: Crown Clothing Corporation  
VS. Randcore, Inc.  
Rand International Trading, Inc.  
Andre Bernard and Ronald Bernard

Dear Mr. Bernard:

Enclosed herewith please find a Summons, Complaint and First Request of the Plaintiff Crown Clothing Corporation for Production of Documents relative to the above referenced matter.

Very truly yours,



Ryan M. MacDonald

RMM/Imp  
Enc.

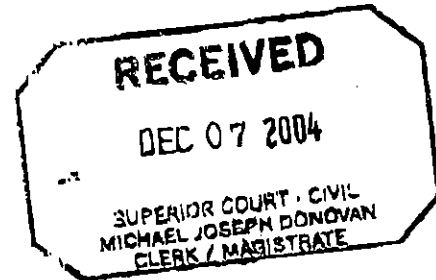
DEC. 15. 2004 4:15PM

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<b>CIVIL ACTION COVER SHEET</b>		Trial Court of Massachusetts Superior Court Department County: <b>SUFFOLK</b>	
DOCKET NO. (S)		<b>B.L.S. 04-5313</b>	
PLAINTIFF(S)	Crown Clothing Corporation	DEFENDANT(S)	Landcore, Inc., Rand International Trading, Inc. Andre Bernard and Ronald Bernard
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE John C. Wyman (BBO#535620) Ryan M. MacDonald (BBO#654688) Board of Bar Overseers Number Murtha Gullins LLP 99 High St. Boston, MA 02110		ATTORNEY (if not same)	
Origin Code		Original Complaint	

CODE NO.	TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)
BE.1	TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?
	Breach of fiduciary duty and fraud (B) (X) Yes ( ) No
The following is a full and detailed statement of the facts on which plaintiff relies to determine eligibility in to the Business Litigation Session.	

See attached Statement of Facts



\*A Special Tracking Order shall be created by the Presiding Justice of the Business Litigation Session at the Rule 16 Conference.

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

I hereby certify that I have complied with the requirements of Rule 5 of the Superior Judicial Court Uniform Rules of Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods.

Signature of Attorney of Record

DATE: 12/7/04

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ADOC 1-0000

From-BERGER ORGANIZATION

+079828288942

1-718 P.008

NO. 123 P. 9

**STATEMENT OF FACTS IN SUPPORT OF THE PLAINTIFF'S  
APPLICATION TO THE BUSINESS LITIGATION SESSION**

The plaintiff Crown Clothing Corporation ("Crown Clothing") entered into a contract with the defendant Randcore, Inc. ("RandCore") in 1995 under which RandCore and its principal, defendant Andre Bernard, agreed to serve as agent for Crown Clothing in the Czech Republic, Slovakia and Bulgaria. Randcore and Andre Bernard agreed to perform services for Crown Clothing that included, among other things, locating manufacturers of men's suits and overcoats, negotiating prices, performing quality checks and other terms.

In 1997 Andre Bernard negotiated a contract for Crown Clothing to purchase men's overcoats from a Bulgarian corporation named Albena Style AD ("Albena Style"). Defendant Andre Bernard of RandCore represented to Crown Clothing that Albena Style would not be able to provide linings for the overcoats and that he would purchase and provide linings to be incorporated into the overcoats that Albena Style manufactured for Crown Clothing. Since 1997 Crown Clothing has purchased numerous overcoats from Albena Style. The defendant Rand International Trading, Inc. ("Rand") (a corporation owned by Ronald Bernard, a brother of Andre Bernard) has invoiced to Crown Clothing and Crown Clothing had paid to Rand more than \$776,873 for the costs of linings for overcoats manufactured and sold to Crown Clothing by Albena Style.

In 2004, Crown Clothing learned for the first time that Andre Bernard misrepresented that Albena Style could not supply linings for the overcoats and that Bernard was purchasing linings installed into overcoats manufactured by Albena Style for Crown Clothing. Albena Style has informed Crown Clothing that Albena Style purchased linings for overcoats it manufactured for Crown Clothing and that the cost of the linings was included in the invoiced prices paid by Crown Clothing to Albena Style.

Crown Clothing's claims involve allegations of breaches of fiduciary duty, conspiracy, fraud and unfair business practices under M.G.L. c. 93A § 11. These claims involve complex legal and factual issues arising out of a complex scheme by the defendants RandCore, Rand, Andre Bernard and Ronald Bernard to defraud Crown Clothing. Damages sustained by Crown Clothing include, in addition to the more than \$776,873 paid to Rand for linings for overcoats, more than more than \$134,243.99 in U. S. customs duties overpaid by Crown Clothing in reliance on Randcore's misrepresentations, damages for lost business and other incidental and consequential damages. Because of the sophisticated legal and factual issues that are likely to arise in this case, this case is appropriate for assignment to the Business Litigation Session.



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Crown Clothing Corporation v. Randcore, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Jeffrey S. SternADDRESS Sugarman, Rogers, Barshak & Cohen, P.C., 101 Merrimac Street, Boston, MA 02114TELEPHONE NO. 617-227-3030

## CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Crown Clothing Corporation

(b) County of Residence of First Listed Plaintiff Suffolk  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John C. Wyman, Esquire Tel. 617-457-4000

Murtha Cullina LLP, 99 High St., Boston, MA 02110

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## DEFENDANTS

Randcore, Inc., Rand International Trading, Inc.  
Andre Bernard, and Ronald Bernard  
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Jeffrey S. Stern, Esq., Sugarman, Rogers, Barshak  
& Cohen, P.C., 101 Merrimac, Boston, 02110

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |                            |                                       |   |                                       |                                       |
|----------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| PTF                        | DEF                                   |   | PTF                                   | DEF                                   |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1            | Citizen of This State                   | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Citizen of Another State                | <input type="checkbox"/> 5            | <input checked="" type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |
- Incorporated or Principal Place of Business In This State
- Incorporated and Principal Place of Business In Another State
- Foreign Nation

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. Section 1332Brief description of cause: Diversity of Parties (Plntff. principal place of business in MA; Defendants principal place of business in NY)

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

1-7-05

SIGNATURE OF ATTORNEY OF RECORD

Jeffrey S. Stern

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE